



February 20, 2004

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## ENGROSSED

### SENATE BILL No. 194

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DIGEST OF SB 194 (Updated February 17, 2004 1:58 pm - DI 107)

**Citations Affected:** IC 12-7; IC 12-13; IC 31-33; IC 31-34; IC 31-37; IC 34-30.

**Synopsis:** CHINS and child fatality review. Provides that a child is a child in need of services (CHINS) if the child: (1) lives in the same household as another child who is the victim of certain sex offenses; (2) lives in the same household as the adult who committed the sex offense; (3) needs care, treatment, or rehabilitation that the child is not receiving and that is unlikely to be provided or accepted without the coercive intervention of the court; and (4) has been placed in or has been considered for placement in an informal adjustment program. Establishes a rebuttable presumption that a child is a CHINS if: (1) another child in the same household has been the victim of a sex offense; (2) the offense was committed by an adult living in the household; and (3) the offense resulted in the conviction of the adult or a CHINS adjudication concerning the child victim. Provides that a child presumed to be a CHINS may not be taken into custody unless a court finds cause following a hearing. Establishes the statewide child fatality review committee to review the deaths of children who die suddenly or unexpectedly. Makes the testimony of a committee

(Continued next page)

**Effective:** July 1, 2004.

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**Dillon, Clark, Broden, Waterman,  
Skillman, Zakas**

(HOUSE SPONSORS — ORENTLICHER, RUPPEL)

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January 6, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.

January 15, 2004, reported favorably — Do Pass.

January 27, 2004, read second time, amended, ordered engrossed.

January 28, 2004, engrossed.

February 2, 2004, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Judiciary.

February 19, 2004, amended, reported — Do Pass.

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ES 194—LS 6678/DI 69+



Digest Continued

member inadmissible in certain proceedings. Requires a juvenile court to order a child and the child's parent into counseling if the child is found to have committed a delinquent act that would be one of certain types of sex crimes if committed by an adult. Provides that records of state agencies regarding the death of a child who died as a result of abuse, abandonment, or neglect are not confidential.

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February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 194

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-7-2-28, AS AMENDED BY P.L.34-2001,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2004]: Sec. 28. "Child" means the following:

4 (1) For purposes of IC 12-13-15, the meaning set forth in  
5 IC 12-13-15-1.

6 (2) **For purposes of IC 12-13-15.1, the meaning set forth in**  
7 **IC 12-13-15.1-1.**

8 (3) For purposes of IC 12-17.2 and IC 12-17.4, an individual who  
9 is less than eighteen (18) years of age.

10 ~~(3)~~ (4) For purposes of IC 12-26, the meaning set forth in  
11 IC 31-9-2-13(d).

12 SECTION 2. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001,  
13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2004]: Sec. 76.7. (a) "Emergency medical services", for  
15 purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.

16 (b) **"Emergency medical services", for purposes of**  
17 **IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.**

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SECTION 3. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 124.5. (a) "Local child fatality review team", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.

(b) "Local child fatality review team", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.

SECTION 4. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 129.5. (a) "Mental health provider", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.

(b) "Mental health provider", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-4.

SECTION 5. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 186.5. "Statewide child fatality review committee", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-5.

SECTION 6. IC 12-13-15-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.5. A local child fatality review team may request that the statewide child fatality review committee make a fatality review of a child from the area served by the local child fatality review team if a majority of the members of a local child fatality review team vote to make the request.

SECTION 7. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

**Chapter 15.1. Statewide Child Fatality Review Committee**

**Sec. 1.** As used in this chapter, "child" means an individual less than eighteen (18) years of age.

**Sec. 2.** As used in this chapter, "emergency medical services" means emergency ambulance services or other services, including extrication and rescue services, provided to an individual in need of immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

**Sec. 3.** As used in this chapter, "local child fatality review team" refers to a county or regional child fatality review team established under IC 12-13-15.

**Sec. 4.** As used in this chapter, "mental health provider" means any of the following:

- (1) A registered nurse or licensed practical nurse licensed under IC 25-23.

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(2) A clinical social worker licensed under IC 25-23.6-5.

(3) A marriage and family therapist licensed under IC 25-23.6-8.

(4) A psychologist licensed under IC 25-33.

(5) A school psychologist licensed by the Indiana state board of education.

Sec. 5. As used in this chapter, "statewide child fatality review committee" refers to the statewide child fatality review committee established by section 6 of this chapter.

Sec. 6. (a) The statewide child fatality review committee is established for the purpose of reviewing a child's death that is:

(1) sudden;

(2) unexpected; or

(3) unexplained;

if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.

(b) The statewide child fatality review committee may also review the death of a child or a near fatality of a child upon request by an individual.

(c) A request submitted under subsection (b) must set forth:

(1) the name of the child;

(2) the age of the child;

(3) the county where the child died or where the near fatality occurred;

(4) whether a local child fatality review team reviewed the death; and

(5) the cause of death of the deceased child or a description of the near fatality of the child.

Sec. 7. A child fatality review conducted by the statewide child fatality review committee under this chapter shall consist of determining:

(1) whether similar future deaths could be prevented; and

(2) agencies or resources that should be involved to adequately prevent future deaths of children.

Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

(1) a coroner or deputy coroner;

(2) a representative from:

(A) the state department of health established by IC 16-19-1-1;

(B) a local health department established under

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- 1 IC 16-20-2; or  
 2 (C) a multiple county health department established under  
 3 IC 16-20-3;  
 4 (3) a pediatrician;  
 5 (4) a representative of law enforcement;  
 6 (5) a representative from an emergency medical services  
 7 provider;  
 8 (6) a director of an office of family and children;  
 9 (7) a representative of a prosecuting attorney;  
 10 (8) a pathologist with forensic experience who is licensed to  
 11 practice medicine in Indiana;  
 12 (9) a mental health provider;  
 13 (10) a representative of a child abuse prevention program;  
 14 (11) a representative of a child advocacy program; and  
 15 (12) a representative of the department of education.

16 Sec. 9. (a) The chairperson of the statewide child fatality review  
 17 committee shall be selected by the governor.

18 (b) The statewide child fatality review committee shall meet at  
 19 the call of the chairperson.

20 (c) The statewide child fatality review committee chairperson  
 21 shall determine the agenda for each meeting.

22 Sec. 10. (a) Except as provided in subsection (b), meetings of the  
 23 statewide child fatality review committee are open to the public.

24 (b) Except as provided in subsection (d), a meeting of the  
 25 statewide child fatality review committee that involves:

- 26 (1) confidential records; or  
 27 (2) identifying information regarding the death of a child that  
 28 is confidential under state or federal law;  
 29 shall be held as an executive session.

30 (c) If a meeting is held as an executive session under subsection  
 31 (b), each individual who:

- 32 (1) attends the meeting; and  
 33 (2) is not a member of the statewide child fatality review  
 34 committee;

35 shall sign a confidentiality statement prepared by the division. The  
 36 statewide child fatality review committee shall keep all  
 37 confidentiality statements signed under this subsection.

38 (d) A majority of the members of the statewide child fatality  
 39 review committee may vote to disclose any report or part of a  
 40 report regarding a fatality review to the public if the information  
 41 is in the general public interest as determined by the statewide  
 42 child fatality review committee.

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1        **Sec. 11. Members of the statewide child fatality review**  
 2 **committee and individuals who attend a meeting of the statewide**  
 3 **child fatality review team as an invitee of the chairperson:**

4        (1) **may discuss among themselves confidential matters that**  
 5 **are before the statewide child fatality review committee;**

6        (2) **are bound by all applicable laws regarding the**  
 7 **confidentiality of matters reviewed by the statewide child**  
 8 **fatality review committee; and**

9        (3) **except when acting:**

10        (A) **with malice;**

11        (B) **in bad faith; or**

12        (C) **with negligence;**

13        **are immune from any civil or criminal liability that might**  
 14 **otherwise be imposed as a result of communicating among**  
 15 **themselves about confidential matters that are before the**  
 16 **statewide child fatality review committee.**

17        **Sec. 12. The division shall provide training to the statewide child**  
 18 **fatality review committee.**

19        **Sec. 13. (a) The division shall collect and document information**  
 20 **surrounding the deaths of children reviewed by the statewide child**  
 21 **fatality review committee. The division shall develop a data**  
 22 **collection form that includes:**

23        (1) **identifying and nonidentifying information;**

24        (2) **information regarding the circumstances surrounding a**  
 25 **death;**

26        (3) **factors contributing to a death; and**

27        (4) **findings and recommendations.**

28        (b) **The data collection form developed under this section must**  
 29 **also be provided to:**

30        (1) **the appropriate community child protection team; and**

31        (2) **the appropriate:**

32        (A) **local health department established under IC 16-20-2;**  
 33 **or**

34        (B) **multiple county health department established under**  
 35 **IC 16-20-3.**

36        **Sec. 14. The affirmative votes of the voting members of a**  
 37 **majority of the statewide child fatality review committee are**  
 38 **required for the committee to take action on any measure.**

39        **Sec. 15. The expenses of the statewide child fatality review**  
 40 **committee shall be paid from funds appropriated to the division.**

41        **Sec. 16. The testimony of a member of the statewide child**  
 42 **fatality review committee is not admissible as evidence concerning**

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1 **an investigation by the statewide child fatality review committee.**

2 SECTION 8. IC 31-33-18-1 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **(a) Except as**  
4 **provided in subsection (b), the following are confidential:**

5 (1) Reports made under this article (or IC 31-6-11 before its  
6 repeal).

7 (2) Any other information obtained, reports written, or  
8 photographs taken concerning the reports in the possession of:

9 (A) the division of family and children;

10 (B) the county office of family and children; or

11 (C) the local child protection service.

12 **(b) All records held by:**

13 **(1) the division of family and children;**

14 **(2) a county office of family and children;**

15 **(3) a local child protection service;**

16 **(4) a local child fatality review team established under**  
17 **IC 12-13-15; or**

18 **(5) the statewide child fatality review committee established**  
19 **under IC 12-13-15.1-6;**

20 **regarding the death of a child determined to be a result of abuse,**  
21 **abandonment, or neglect are not confidential and shall be disclosed**  
22 **to any person who requests the information. Information**  
23 **identifying the person reporting the abuse, abandonment, or**  
24 **neglect shall not be released. Any information in a record that is**  
25 **otherwise confidential under state or federal law shall not be**  
26 **released.**

27 SECTION 9. IC 31-33-18-2 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other  
29 material described in section ~~1~~ **1(a)** of this chapter shall be made  
30 available only to the following:

31 (1) Persons authorized by this article.

32 (2) A legally mandated public or private child protective agency  
33 investigating a report of child abuse or neglect or treating a child  
34 or family that is the subject of a report or record.

35 (3) A police or other law enforcement agency, prosecuting  
36 attorney, or coroner in the case of the death of a child who is  
37 investigating a report of a child who may be a victim of child  
38 abuse or neglect.

39 (4) A physician who has before the physician a child whom the  
40 physician reasonably suspects may be a victim of child abuse or  
41 neglect.

42 (5) An individual legally authorized to place a child in protective

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1 custody if:

2 (A) the individual has before the individual a child whom the  
3 individual reasonably suspects may be a victim of abuse or  
4 neglect; and

5 (B) the individual requires the information in the report or  
6 record to determine whether to place the child in protective  
7 custody.

8 (6) An agency having the legal responsibility or authorization to  
9 care for, treat, or supervise a child who is the subject of a report  
10 or record or a parent, guardian, custodian, or other person who is  
11 responsible for the child's welfare.

12 (7) An individual named in the report or record who is alleged to  
13 be abused or neglected or, if the individual named in the report is  
14 a child or is otherwise incompetent, the individual's guardian ad  
15 litem or the individual's court appointed special advocate, or both.

16 (8) Each parent, guardian, custodian, or other person responsible  
17 for the welfare of a child named in a report or record and an  
18 attorney of the person described under this subdivision, with  
19 protection for the identity of reporters and other appropriate  
20 individuals.

21 (9) A court, upon the court's finding that access to the records  
22 may be necessary for determination of an issue before the court.  
23 However, access is limited to in camera inspection unless the  
24 court determines that public disclosure of the information  
25 contained in the records is necessary for the resolution of an issue  
26 then pending before the court.

27 (10) A grand jury upon the grand jury's determination that access  
28 to the records is necessary in the conduct of the grand jury's  
29 official business.

30 (11) An appropriate state or local official responsible for the child  
31 protective service or legislation carrying out the official's official  
32 functions.

33 (12) A foster care review board established by a juvenile court  
34 under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the  
35 court's determination that access to the records is necessary to  
36 enable the foster care review board to carry out the board's  
37 purpose under IC 31-34-21.

38 (13) The community child protection team appointed under  
39 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to  
40 enable the team to carry out the team's purpose under IC 31-33-3.

41 (14) A person about whom a report has been made, with  
42 protection for the identity of:

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(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

**(15) A local child fatality review team established under IC 12-13-15-5.**

**(16) The statewide child fatality review committee established by IC 12-13-15.1-6.**

SECTION 10. IC 31-34-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2; ~~or~~

(I) IC 35-46-1-3; ~~and or~~

**(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and**

(2) the child needs care, treatment, or rehabilitation that: ~~the child:~~

(A) ~~the child~~ is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

**(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:**

**(1) the child lives in the same household as another child who is the victim of a sex offense under:**

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

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- 1 (H) IC 35-45-4-2;
- 2 (I) IC 35-46-1-3; or
- 3 (J) the law of another jurisdiction, including a military
- 4 court, that is substantially equivalent to any of the offenses
- 5 listed in clauses (A) through (I);
- 6 (2) the child lives in the same household as the adult who
- 7 committed the sex offense under subdivision (1) and the sex
- 8 offense resulted in a conviction or a judgment under
- 9 IC 31-34-11-2;
- 10 (3) the child needs care, treatment, or rehabilitation that:
- 11 (A) the child is not receiving; and
- 12 (B) is unlikely to be provided or accepted without the
- 13 coercive intervention of the court; and
- 14 (4) a caseworker assigned to provide services to the child:
- 15 (A) places the child in a program of informal adjustment
- 16 or other family or rehabilitative services based upon the
- 17 existence of the circumstances described in subdivisions (1)
- 18 and (2) and the assigned caseworker subsequently
- 19 determines further intervention is necessary; or
- 20 (B) determines that a program of informal adjustment or
- 21 other family or rehabilitative services is inappropriate.
- 22 SECTION 11. IC 31-34-12-4.5 IS ADDED TO THE INDIANA
- 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 24 [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) There is a rebuttable
- 25 presumption that a child is a child in need of services if the state
- 26 establishes that:
- 27 (1) another child in the same household is the victim of a sex
- 28 offense described in IC 31-34-1-3; and
- 29 (2) the sex offense described in IC 31-34-1-3:
- 30 (A) was committed by an adult who lives in the household
- 31 with the child; and
- 32 (B) resulted in a conviction of the adult or a judgment
- 33 under IC 31-34-11-2 as it relates to the child against whom
- 34 the sex offense was committed.
- 35 (b) The following may not be used as grounds to rebut the
- 36 presumption under subsection (a):
- 37 (1) The child who is the victim of the sex offense described in
- 38 IC 31-34-1-3 is not genetically related to the adult who
- 39 committed the act, but the child presumed to be the child in
- 40 need of services under this section is genetically related to the
- 41 adult who committed the act.
- 42 (2) The child who is the victim of the sex offense described in

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1           IC 31-34-1-3 differs in age from the child presumed to be the  
2           child in need of services under this section.

3           (c) This section does not affect the ability to take a child into  
4           custody or emergency custody under IC 31-34-2 if the act of taking  
5           the child into custody or emergency custody is not based upon a  
6           presumption established under this section. However, if the  
7           presumption established under this section is the sole basis for  
8           taking a child into custody or emergency custody under IC 31-34-2,  
9           the court first must find cause to take the child into custody or  
10          emergency custody following a hearing in which the parent,  
11          guardian, or custodian of the child is accorded the rights described  
12          in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).

13          SECTION 12. IC 31-37-19-17.4 IS ADDED TO THE INDIANA  
14          CODE AS A NEW SECTION TO READ AS FOLLOWS  
15          [EFFECTIVE JULY 1, 2004]: **Sec. 17.4. (a) This section applies if a**  
16          **child is a delinquent child under IC 31-37-1 due to the commission**  
17          **of a delinquent act that, if committed by an adult, would be a sex**  
18          **crime listed in IC 35-38-1-7.1(e).**

19          (b) The juvenile court shall, in addition to any other order or  
20          decree the court makes under this chapter, order:

21               (1) the child; and

22               (2) the child's parent or guardian;  
23          to receive psychological counseling as directed by the court.

24          SECTION 13. IC 34-30-2-44.1 IS ADDED TO THE INDIANA  
25          CODE AS A NEW SECTION TO READ AS FOLLOWS  
26          [EFFECTIVE JULY 1, 2004]: **Sec. 44.1. IC 12-13-15.1-11**  
27          **(Concerning members of the statewide child fatality review**  
28          **committee and persons who attend a meeting of the statewide child**  
29          **fatality review committee as invitees of the chairperson).**

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SENATE MOTION

Madam President: I move that Senators Broden and Waterman be added as coauthors of Senate Bill 194.

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SENATE MOTION

Madam President: I move that Senator Clark be added as second author and Senator Skillman be added as coauthor of Senate Bill 194.

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COMMITTEE REPORT

Madam President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 194, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 194 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 0.

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## SENATE MOTION

Madam President: I move that Senate Bill 194 be amended to read as follows:

Page 2, line 15, delete "and".

Page 2, between lines 15 and 16, begin a new line block indented and insert:

**"(2) the child lives in the same household as the adult who committed the sex crime under subdivision (1) and the sex crime resulted in a conviction or a judgment under IC 31-34-11-2;"**

Page 2, line 16, delete "(2)" and insert "(3)".

Page 2, line 19, delete "." and insert "; and".

Page 2, between lines 19 and 20, begin a new line block indented and insert:

**"(4) a caseworker assigned to provide services to the child:  
 (A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or  
 (B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate."**

Page 3, after line 6, begin a new paragraph and insert:

**"(d) This section does not affect the ability to take a child into custody or emergency custody under IC 31-34-2 if the act of taking the child into custody or emergency custody is not based upon a presumption established under this section."**

(Reference is to SB 194 as printed on January 16, 2004.)

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SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Engrossed Senate Bill 194.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 194, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-7-2-28, AS AMENDED BY P.L.34-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. "Child" means the following:

(1) For purposes of IC 12-13-15, the meaning set forth in IC 12-13-15-1.

**(2) For purposes of IC 12-13-15.1, the meaning set forth in IC 12-13-15.1-1.**

**(3)** For purposes of IC 12-17.2 and IC 12-17.4, an individual who is less than eighteen (18) years of age.

~~(3)~~ **(4)** For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

SECTION 2. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 76.7. **(a)** "Emergency medical services", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.

**(b) "Emergency medical services", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.**

SECTION 3. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 124.5. **(a)** "Local child fatality review team", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.

**(b) "Local child fatality review team", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.**

SECTION 4. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 129.5. **(a)** "Mental health provider", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.

**(b) "Mental health provider", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-4.**

SECTION 5. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 186.5. "Statewide child fatality review committee", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-5.**

SECTION 6. IC 12-13-15-6.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. A local child fatality review team may request that the statewide child fatality review committee make a fatality review of a child from the area served by the local child fatality review team if a majority of the members of a local child fatality review team vote to make the request.**

SECTION 7. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

**Chapter 15.1. Statewide Child Fatality Review Committee**

**Sec. 1. As used in this chapter, "child" means an individual less than eighteen (18) years of age.**

**Sec. 2. As used in this chapter, "emergency medical services" means emergency ambulance services or other services, including extrication and rescue services, provided to an individual in need of immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.**

**Sec. 3. As used in this chapter, "local child fatality review team" refers to a county or regional child fatality review team established under IC 12-13-15.**

**Sec. 4. As used in this chapter, "mental health provider" means any of the following:**

- (1) A registered nurse or licensed practical nurse licensed under IC 25-23.**
- (2) A clinical social worker licensed under IC 25-23.6-5.**
- (3) A marriage and family therapist licensed under IC 25-23.6-8.**
- (4) A psychologist licensed under IC 25-33.**
- (5) A school psychologist licensed by the Indiana state board of education.**

**Sec. 5. As used in this chapter, "statewide child fatality review committee" refers to the statewide child fatality review committee established by section 6 of this chapter.**

**Sec. 6. (a) The statewide child fatality review committee is established for the purpose of reviewing a child's death that is:**

- (1) sudden;**
- (2) unexpected; or**
- (3) unexplained;**

**if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.**

**(b) The statewide child fatality review committee may also**

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review the death of a child or a near fatality of a child upon request by an individual.

(c) A request submitted under subsection (b) must set forth:

- (1) the name of the child;
- (2) the age of the child;
- (3) the county where the child died or where the near fatality occurred;
- (4) whether a local child fatality review team reviewed the death; and
- (5) the cause of death of the deceased child or a description of the near fatality of the child.

**Sec. 7.** A child fatality review conducted by the statewide child fatality review committee under this chapter shall consist of determining:

- (1) whether similar future deaths could be prevented; and
- (2) agencies or resources that should be involved to adequately prevent future deaths of children.

**Sec. 8.** The statewide child fatality review committee consists of the following members appointed by the governor:

- (1) a coroner or deputy coroner;
- (2) a representative from:
  - (A) the state department of health established by IC 16-19-1-1;
  - (B) a local health department established under IC 16-20-2; or
  - (C) a multiple county health department established under IC 16-20-3;
- (3) a pediatrician;
- (4) a representative of law enforcement;
- (5) a representative from an emergency medical services provider;
- (6) a director of an office of family and children;
- (7) a representative of a prosecuting attorney;
- (8) a pathologist with forensic experience who is licensed to practice medicine in Indiana;
- (9) a mental health provider;
- (10) a representative of a child abuse prevention program;
- (11) a representative of a child advocacy program; and
- (12) a representative of the department of education.

**Sec. 9.** (a) The chairperson of the statewide child fatality review committee shall be selected by the governor.

(b) The statewide child fatality review committee shall meet at

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the call of the chairperson.

(c) The statewide child fatality review committee chairperson shall determine the agenda for each meeting.

Sec. 10. (a) Except as provided in subsection (b), meetings of the statewide child fatality review committee are open to the public.

(b) Except as provided in subsection (d), a meeting of the statewide child fatality review committee that involves:

- (1) confidential records; or
- (2) identifying information regarding the death of a child that is confidential under state or federal law;

shall be held as an executive session.

(c) If a meeting is held as an executive session under subsection (b), each individual who:

- (1) attends the meeting; and
- (2) is not a member of the statewide child fatality review committee;

shall sign a confidentiality statement prepared by the division. The statewide child fatality review committee shall keep all confidentiality statements signed under this subsection.

(d) A majority of the members of the statewide child fatality review committee may vote to disclose any report or part of a report regarding a fatality review to the public if the information is in the general public interest as determined by the statewide child fatality review committee.

Sec. 11. Members of the statewide child fatality review committee and individuals who attend a meeting of the statewide child fatality review team as an invitee of the chairperson:

- (1) may discuss among themselves confidential matters that are before the statewide child fatality review committee;
- (2) are bound by all applicable laws regarding the confidentiality of matters reviewed by the statewide child fatality review committee; and
- (3) except when acting:
  - (A) with malice;
  - (B) in bad faith; or
  - (C) with negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of communicating among themselves about confidential matters that are before the statewide child fatality review committee.

Sec. 12. The division shall provide training to the statewide child fatality review committee.

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**Sec. 13. (a) The division shall collect and document information surrounding the deaths of children reviewed by the statewide child fatality review committee. The division shall develop a data collection form that includes:**

- (1) identifying and nonidentifying information;**
- (2) information regarding the circumstances surrounding a death;**
- (3) factors contributing to a death; and**
- (4) findings and recommendations.**

**(b) The data collection form developed under this section must also be provided to:**

- (1) the appropriate community child protection team; and**
- (2) the appropriate:**
  - (A) local health department established under IC 16-20-2;**
  - or**
  - (B) multiple county health department established under IC 16-20-3.**

**Sec. 14. The affirmative votes of the voting members of a majority of the statewide child fatality review committee are required for the committee to take action on any measure.**

**Sec. 15. The expenses of the statewide child fatality review committee shall be paid from funds appropriated to the division.**

**Sec. 16. The testimony of a member of the statewide child fatality review committee is not admissible as evidence concerning an investigation by the statewide child fatality review committee.**

**SECTION 8. IC 31-33-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Except as provided in subsection (b), the following are confidential:**

- (1) Reports made under this article (or IC 31-6-11 before its repeal).**
- (2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:**
  - (A) the division of family and children;**
  - (B) the county office of family and children; or**
  - (C) the local child protection service.**

**(b) All records held by:**

- (1) the division of family and children;**
- (2) a county office of family and children;**
- (3) a local child protection service;**
- (4) a local child fatality review team established under IC 12-13-15; or**
- (5) the statewide child fatality review committee established**

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**under IC 12-13-15.1-6;  
regarding the death of a child determined to be a result of abuse, abandonment, or neglect are not confidential and shall be disclosed to any person who requests the information. Information identifying the person reporting the abuse, abandonment, or neglect shall not be released. Any information in a record that is otherwise confidential under state or federal law shall not be released.**

SECTION 9. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other material described in section **† 1(a)** of this chapter shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
- (3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
- (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
- (5) An individual legally authorized to place a child in protective custody if:
  - (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
  - (B) the individual requires the information in the report or record to determine whether to place the child in protective custody.
- (6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
- (7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
- (8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with

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protection for the identity of reporters and other appropriate individuals.

(9) A court, upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

**(15) A local child fatality review team established under IC 12-13-15-5.**

**(16) The statewide child fatality review committee established by IC 12-13-15.1-6."**

Page 1, line 13, strike "or".

Page 1, line 14, strike "and" and insert "**or**".

Page 1, between lines 14 and 15, begin a new line double block indented and insert:

**"(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and"**

Page 2, line 14, delete "or".

Page 2, line 15, after "IC 35-46-1-3;" insert "**or**".

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Page 2, between lines 15 and 16, begin a new line double block indented and insert:

**"(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);".**

Page 2, line 17, delete "crime" and insert "offense".

Page 2, line 18, delete "crime" and insert "offense".

Page 3, line 13, delete "A child presumed to be a child in need of services under this" and insert **"This section does not affect the ability to take a child into custody or emergency custody under IC 31-34-2 if the act of taking the child into custody or emergency custody is not based upon a presumption established under this section. However, if the presumption established under this section is the sole basis for taking a child into custody or emergency custody under IC 31-34-2, the court first must find".**

Page 3, delete line 14.

Page 3, line 15, delete "IC 31-34-2 unless the court first finds".

Page 3, delete lines 19 through 22, begin a new paragraph and insert:

**"SECTION 12. IC 31-37-19-17.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17.4. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be a sex crime listed in IC 35-38-1-7.1(e).**

**(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order:**

**(1) the child; and**

**(2) the child's parent or guardian;**

**to receive psychological counseling as directed by the court.**

**SECTION 13. IC 34-30-2-44.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 44.1. IC 12-13-15.1-11 (Concerning members of the statewide child fatality review committee and persons who attend a meeting of the statewide child fatality review committee as invitees of the chairperson)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 194 as reprinted January 28, 2004.)

LAWSON L, Chair

Committee Vote: yeas 12, nays 0.

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